

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRUE HEALTH CHIROPRACTIC INC, et
al.,

Plaintiffs,

v.

MCKESSON CORPORATION, et al.,

Defendants.

Case No. 13-cv-02219-HSG

**ORDER REGARDING PLAINTIFFS'
OFFER OF PROOF; STRIKING
UNAUTHORIZED FILING**

Re: Dkt. 456

The Court has reviewed Plaintiffs' Offer of Proof. *See* Dkt. No. 455 ("Offer of Proof"). In their Offer of Proof, Plaintiffs reference subpoena responses received from telephone carriers. *Id.* at 2. Plaintiffs' counsel is **DIRECTED** to file any declarations or equivalent materials received from the telephone carriers by 5:00 p.m. on September 15, 2021. Plaintiffs' counsel must not file any voluminous raw data that the telephone carriers included with their subpoena responses: what the Court is interested in is only any explanation provided by the carriers as to their practices and the nature of the materials produced. Plaintiffs' counsel shall also promptly file any additional declarations or equivalent materials it receives from the telephone carriers on a rolling basis.


Plaintiffs' counsel proposed to file materials received from the telephone carriers under seal. *Id.* at 2, n.1. It is not clear to the Court why telephone carrier declarations or equivalent materials would meet the requirements for filing under seal. If Plaintiffs' counsel believes the materials warrant sealing, Plaintiffs' counsel may file a motion to seal as required by this District's local rules.

On September 14, 2021, Defendants filed Dkt No. [456] Letter to the Court Regarding Plaintiffs' Offer of Proof. The Court neither authorized nor invited such a letter, and it is **STRICKEN** from the record.

1 To the extent Defendants have a response to Plaintiffs' Offer of Proof, especially with
2 respect to whether Plaintiffs proposed methodology satisfies the predominance requirement for
3 class treatment, Defendants may file any response by 5:00 p.m. on September 17, 2021.
4 Defendants' response is limited to no more than five pages, and Defendants may not include any
5 further expert declarations or other evidentiary material. In other words, the Court is seeking the
6 Defendants' legal position, and is not inviting further factual response or rebuttal regarding the
7 offer of proof.

8 **IT IS SO ORDERED.**

9 Dated: 9/15/2021

10 
11 HAYWOOD S. GILLIAM, JR.
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California